

August 19, 2004

William Anido
Parsons Brinckerhoff
7300 Corporate Center Drive
Suite 600
Miami, FL 33126

RE: REQUEST FOR ADVISORY OPINION 04-156

Dear Mr. Anido:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 18, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding Parsons Brinckerhoff's ability to provide security and communications services under a pending contract at the Seaport.

In your letter, you informed the Commission that the Office of Capital Improvements Construction Coordination (CICC) recently issued a Notice to Professional Consultants to provide Security and Communications Services at the Seaport. The consultant will assist the Seaport in "the supervision of the installation and implementation of the security equipment." The scope of services consists of "design and development of technical specifications, production of Auto CADD drawings and details for the installation of security fences and gates, lighting, access controls (including biometrics), I.D. card readers, public address and security warning systems,

intelligent transportation systems, cargo security gates, command and control centers, communications networks and other security communications related technologies including required underlying physical infrastructure." Consultants must also have extensive knowledge of the standards and regulations of the Department of Homeland Security, FDLE, FBI, US Customs, US Coast Guard and other state and federal agencies. Finally, firms are required to know the operational and security details of cargo yards and cruise terminals.

Addendum #2 to the NTPC provides that "Prime Consultants must identify whether they or any of their subconsultants or members have participated in any way on any Port of Miami projects for the Miami-Dade Seaport Department related to security and communications including but not limited to the services described in the Scope of Services. In identifying themselves or any such subconsultants or members, the Prime Consultant must identify the specific work that they the sub-consultant or member performed or work to be performed on previous security and communications projects as well as the work to be performed as part of this solicitation."

Parsons Brinckerhoff is currently serving as a design and engineering subconsultant to the Haskell Company at the Seaport. Parsons current duties for the Haskell Company include improvements to the main entrance roadway, access roadways to the terminals and surface parking lots.

Parsons Brinckerhoff is also currently serving as a Prime Consultant to the Seaport on the Cargo Yard Improvements contract. In that capacity, Parsons Brinckerhoff is performing engineering services required to prepare a 100% complete set of contract plans to include paving, grading, drainage, construction phasing and utility adjustments

for the designated cargo yard improvements. Parsons Brinckerhoff is also performing necessary homeland security upgrades on the plans for the cargo yards.

The Commission found Parsons Brinckerhoff may serve as a member of the team to provide Security and Communications services at the Seaport as long as Parsons does not provide any work related to the Homeland Security work currently being performed under the Cargo Yard Improvement contract.

In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project. Further a conflict may exist if there are overlapping roles or responsibilities between two related contracts. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

Parsons Brinckerhoff may serve as a member of the team to provide security and communications services at the Seaport. However, in order to avoid any conflict between duties, Parsons Brinckerhoff may not provide any services related to the firm's work on cargo yard homeland security improvements. Another member of the team must perform any design or oversight work related to these projects. Finally, if Parsons Brinckerhoff is awarded the contract, Parsons Brinckerhoff must provide the Ethics Commission with a report regarding its

compliance with the restrictions in this opinion within 60 days of the Notice to Proceed and within 60 days of the issuance of each work order.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

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ROBERT MEYERS
Executive Director

cc: Faith Samuels, CICC
Christopher Mazzella, Inspector General